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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/696,502	10/29/2003	John S. Csapo	2003.10.004.WS0	5747
23990	7590	03/30/2006	EXAMINER	
			SANTIAGO CORDERO, MARIVELISSE	
			ART UNIT	PAPER NUMBER
			2617	
DATE MAILED: 03/30/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Advisory Action Before the Filing of an Appeal Brief</b>	Application No.  10/696,502	Applicant(s)  CSAPO ET AL.
	Examiner  Marivelisse Santiago-Cordero	Art Unit  2617

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 22 March 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1.  The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a)  The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
  - b)  The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2.  The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3.  The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a)  They raise new issues that would require further consideration and/or search (see NOTE below);
  - (b)  They raise the issue of new matter (see NOTE below);
  - (c)  They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d)  They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4.  The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5.  Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
6.  Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7.  For purposes of appeal, the proposed amendment(s): a)  will not be entered, or b)  will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 1-19.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

#### AFFIDAVIT OR OTHER EVIDENCE

8.  The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9.  The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10.  The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER

11.  The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.
12.  Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_.
13.  Other: \_\_\_\_\_.

## **CONTINUATION SHEET**

Continuation of 11:

Applicant's arguments filed on 3/22/06 have been fully considered but they are not persuasive.

Regarding claim 11, applicant argues the term "transition base transceiver station" as if different from the applied prior art (see Remarks: page 10, lines 10-18). In response, the Examiner respectfully disagrees because transition is merely a characterization of the base transceiver station and the claim does not require nor limits the argued transition base transceiver station to a particular structure. Therefore, it fails to particularly and distinctively distinguish from the applied prior art. In addition, Kubota's base transceiver station 52<sub>s</sub> reads on the claimed transition base transceiver station because it performs all claimed functions as explained in last Office Action. See paragraphs [0083]-[0084] and [0061] of Kubota.

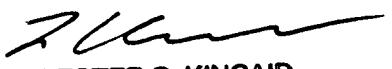
Regarding claims 1-10, applicant argues Shin does not disclose hard handoff (see Remarks: page 11, lines 9-15). In response, the Examiner contends that it is the very same reason why Shin is modified with Kubota because it is obvious expedient to modify Shin's soft handoff with Kubota's hard handoff for the advantage taught by Kubota in paragraph [0024] as explained in last Office Action.

Applicant also argues that there is no motivation to combine the references (see Remarks: page 11, lines 13-15; page 12, lines 11-16). In response, applicant appears to be confused with Kubota's application because as disclosed in paragraph [0024] the advantageous handoff is between difference systems and paragraph [0061] explains this is an inter-system hard handoff. Nevertheless, this is just a motivation that can be found either in the reference itself or within the

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knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988), *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992), and *Ruiz v. A.B. Chance Co.*, 357 F.3d 1270, 1276, 69, USPQ2d 1686, 1690 (Fed. Cir. 2004).

Regarding claims 12 and 16-19, applicant argues that Shin does not teach that a soft handoff occurs when the mobile station reaches the “ $\alpha$  sector” (see Remarks: page 13, lines 10-12). By definition, soft-handoff involves overlapping regions because at a particular region (overlapping region) the device receives or communicates simultaneously with two other devices (base stations/networks).



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